Amendment to the Claims:

This listing of claims will replace all prior versions, and listing, of claims in the application.

Listing of Claims:

IN THE CLAIMS:

1. (currently amended) A method for controlling volume in a two-way communication device, comprising:

detecting a change in manual volume setting;

measuring current background audio level;

determining a relationship between the current background audio level and the volume setting;

establishing the relationship as a desired volume level to be maintained;

sensing a subsequent change in the manual volume setting;

monitoring subsequent background audio level by switchably engaging a microphone of the two-way radio in response to the subsequent change in the manual volume setting;

comparing the current background level to the subsequent background level;

determining whether a change in background level occurred; and

automatically adjusting volume of a speaker of the two-way radio based on the relationship.

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2. (currently amended) A method for controlling volume in a communication device,

comprising:

manually setting a volume control for an initial background audio level;

establishing the set volume as the preferred volume setting for that initial background audio

level, thereby establishing a user-preferred relationship;

monitoring subsequent background audio levels by switching in a microphone when a

change in manual volume control setting occurs; and

maintaining an audio level for the subsequent background audio levels based on the

preferred volume setting for the initial background audio level.

3. (currently amended) A communication device, including:

a controller for monitoring background audio levels;

a manual volume control coupled to the controller, the manual volume control setting a volume level as a user preference for a current background audio level; ~~and~~

a microphone switchably coupled to the controller for monitoring background noise levels in response to changes in the manual volume control; and

the controller providing automatic adjustment of the volume level based on the user preference for the current background audio level in response to any change in the monitored background audio level.

4. canceled

5. (currently amended) A communication device, comprising:

a transceiver portion for transmitting and receiving RF signals for two-way radio communication;

a controller coupled to the transceiver portion, the controller having an intelligent automatic volume control (AVC) for determining when to sample an audio environment;

a manual volume control coupled to the controller, the manual volume control establishing a user selected preferred volume level for an initial background audio level;

a microphone coupled to the controller via a switch, the microphone sampling subsequent background audio levels in response to a subsequent change to the manual volume control being sensed by the intelligent AVC and engaging the switch; and

a speaker coupled to the controller, the speaker having a volume level automatically adjusted by the controller based on the initial background audio level, the sampled subsequent background audio level and the user preferred volume level for the initial background audio level thereby maintaining a user established relationship between the volume heard at the speaker and the sampled subsequent background.